

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

THEODORE ERVIN STITH,  
Plaintiff,  
v.  
DARLENE, et al.,  
Defendants.

No. 2:21-cv-1478-EFB P

ORDER AND FINDINGS AND  
RECOMMENDATIONS

Plaintiff is a state prisoner proceeding without counsel in an action brought under 42 U.S.C. § 1983. On August 23, 2021, the court found that plaintiff had neither paid the filing fee required by 28 U.S.C. § 1914(a) nor requested leave to proceed in forma pauperis under 28 U.S.C. § 1915(a). ECF No. 3.

Accordingly, the court directed plaintiff to either pay the filing fee or submit the application required by § 1915(a). *Id.* The court also warned plaintiff that failure to do so would result in this action being dismissed. *Id.* The time for acting has now passed and plaintiff has not paid the filing fee, submitted another application for leave to proceed in forma pauperis, or otherwise responded to the court's order.

Accordingly, it is ORDERED that the Clerk is directed to randomly assign a United States District Judge to this case.

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1           Further, it is RECOMMENDED that this action be dismissed without prejudice.

2           These findings and recommendations are submitted to the United States District Judge  
3 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days  
4 after being served with these findings and recommendations, any party may file written  
5 objections with the court and serve a copy on all parties. Such a document should be captioned  
6 “Objections to Magistrate Judge’s Findings and Recommendations.” Any response to the  
7 objections shall be served and filed within fourteen days after service of the objections. The  
8 parties are advised that failure to file objections within the specified time may waive the right to  
9 appeal the District Court’s order. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1998); *Martinez*  
10 *v. Ylst*, 951 F.2d 1153 (9th Cir. 1991).

11          Dated: September 28, 2021.



12          EDMUND F. BRENNAN  
13          UNITED STATES MAGISTRATE JUDGE

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